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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,588

12/08/2003

David L. Nickerson

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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

09/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/728,588

Applicant(s)

NICKERSON, DAVID L.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) 19-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/08/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Applicant's election with traverse of claims 1-18 in the reply filed on 6/29/07 is acknowledged. The applicant does not provide an argument in the traversal in the reply. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,570,552 to Nehring.

Regarding claim 1, Nehring discloses a wall made of a first and second layer (fig. 1: 34 & 24), and a third layer in between which is concrete (abstract) and a tie (fig. 1: 42) between the first and second layers.

Regarding claim 2, Nehring discloses the first layer as being a plurality of blocks (abstract, line 2).

Regarding claim 3, Nehring discloses the blocks as having receptacles (fig. 1: 38) for receiving the ties, the receptacles being open an extended length inherently allowing the third layer (concrete slurry) to fill within the receptacle voids.

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Regarding claims 4, 5, Nehring discloses the ties as having two ends, each end connected to a respective layer by the receptacle, the intermediate portion of the tie is then buried in the concrete slurry.

Regarding claim 6, Nehring discloses the use of concrete which inherently acts as an insulator.

Regarding claim 7, Nehring discloses the second layer as having an aesthetic finished exterior (fig. 1: see finished outer side of 24).

Regarding claim 8, Nehring discloses the use of a plurality of blocks (fig. 1: see upper and lower blocks).

Regarding claim 9, 10, Nehring discloses the structure as a plurality of assembled construction unit.

Regarding claim 11, Nehring discloses rebar in the third layer (fig. 1: 44).

Regarding claim 12, Nehring discloses a strut (62) in the tie which includes a socket for the rebar (44) to be disposed through.

Regarding claim 13, Nehring discloses the strut (middle section of 42) having a plurality of sockets (socket of 62 and sockets where 52 and 48 are pointing), the first rebar being disposed in one of the sockets (62).

Regarding claim 14, Nehring discloses the strut (62) as going through the third layer, the strut having a greater degree of stiffness in the vertical rather than the horizontal (fig. 1: 62, see longer vertical dimension reducing flex in the vertical direction).

Regarding claims 15, 16, Nehring discloses the tie as having a strut, the strut (62) having a longer vertical dimension than horizontal.

Regarding claim 17, Nehring discloses the first and second layers as having constricted throat slots (fig. 1: 38: see slot with constriction partially down side of wall), the tie having a plug (50) for fitting within the slot.

Regarding claim 18, Nehring discloses an abutment member (flat area between 50 and 68) which is adjacent to the plug (50) and is received in the slot (38).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to concrete walls in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

BK


Basil Katcheves

8/29/07

Primary Examiner AU 3635